



**State of Connecticut  
DIVISION OF CRIMINAL JUSTICE**

**Testimony of the Division of Criminal Justice**

*In Support of:*

**H.B. No. 5497 (RAISED) An Act Concerning the Recommendations of the Speaker of  
the House of Representatives' Task Force on Domestic Violence**

*Joint Committee on Judiciary – Joint Committee on Human Services  
March 15, 2010*

The Division of Criminal Justice supports H.B. No. 5497, *An Act Concerning the Recommendations of the Speaker of the House of Representatives' Task Force on Domestic Violence*. We commend Speaker Donovan for establishing this task force and we thank Representative Flexer and the other legislators who served on the task force for their thoughtful review and careful examination of these important issues. For many years, the Division of Criminal Justice has taken a leadership role working with victim advocates and others to strengthen our laws to protect the victims of domestic violence. The Division played an integral role in the creation of the first dedicated court dockets for domestic violence cases.

Despite these initiatives, domestic violence remains one of the most serious public safety issues in our state. It is clear that we must not only continue our existing programs and initiatives such as the use of dedicated dockets, but that we must expand those programs and look for further solutions. H.B. No. 5497 offers many positive steps forward in the effort to achieve this goal. The Division of Criminal Justice supports the bill and would respectfully offer the following recommendations for improving the legislation:

The Division supports the concept outlined in section 1 of the bill to provide for electronic monitoring of domestic violence suspects under certain circumstances. However, the bill as now written does not address the question of what happens when a defendant refuses to pay for such monitoring or cannot pay due to indigency. The bill also provides no penalty for failure to comply with this new requirement. The existing process for a criminal violation of a restraining order is very specific and an individual who did not comply with electronic monitoring could not be charged under existing law. Similar concerns apply to subsection (h) of section 3 of the bill. Again, there is no sanction for failure to comply with the electronic monitoring and there is no readily apparent system for determining noncompliance.

Section 3 (c) (F) should be amended to allow disclosure to the Department of Correction for the purposes of determining service needs, restrictions and supervision regarding a defendant who is serving a sentence.

Section 3 (f) should be amended to provide that the protective order is sent to the law enforcement agency for the town in which the victim resides. In this regard, the language in section 7 (a) of the bill would be preferable for this section as well.

With regard to subsection (h) of section 3, the Division of Criminal Justice supports the revision of the eligibility criteria for the Family Violence Education Program (FVEP) to exclude individuals charged with violation of section 53a-62 (a) (1) of the General Statutes, that being Threatening in the Second Degree where one individual intentionally places another in fear of imminent "serious physical injury." As defined in section 53a-3 (4) of the General Statutes, serious physical injury means "physical injury which creates a substantial risk of death, or which causes serious disfigurement, serious impairment of health or serious loss or impairment of the function of any bodily organ." There is no reason why what amounts to a promise to commit a more serious assault should not be treated as the serious threat that it is. Why would we want someone who makes such a promise to have the record of that conduct erased? The Family Violence Education Program should not serve as a shield for those who would make such threats. By removing eligibility for those charged with violation of section 53a -62 (a) (1) a public record will exist to alert law enforcement and potential future victims of this conduct.

The Division believes the provision in section 7 of the bill to require distribution of a copy of a protective order to the law enforcement agency for the town or towns in which the victim lives and works and in which the defendant lives is a major improvement over current law. This change will provide better guidance to the court clerks in determining to whom these orders should be distributed. The Division, however, would recommend further revision to subsection (b) of section 54-1k beyond that detailed in lines 431 through 433 of the bill. We would recommend that such protective order remain in effect for as long as the case is pending rather than for the "time deemed necessary by the court" as proposed in lines 431-433 of the bill.

Section 11 of the bill may be one of the most significant in terms of addressing the high rate of recidivism in domestic violence cases. The Division of Criminal Justice for some time has supported and recommended legislation to provide for a ten-year "look back" in domestic violence cases for purposes of applying the persistent offender statutes and the resulting sanctions. Further, we have also recommended the expansion of the law to allow for the inclusion of offenses committed in other states. Neither of these provisions is by any means a revolutionary approach: the State of Connecticut and others already apply a ten-year look back and the consideration of out-of-state offenses in the prosecution of drunken driving cases. A ten-year look back and the addition of out-of-state convictions are equally appropriate in domestic violence cases, especially considering the incidence of repeat offenders.

With regard to section 12 of the bill, the Division was a pioneering force in the efforts to established dockets dedicated to domestic violence cases and the use of vertical

prosecution in such cases. This approach has been quite successful and the Division fully recognizes and supports the intent behind this section of the bill. However, we must stress that specialized dockets must have the accompanying resources. As we detailed in testimony to the Speaker's Task Force and to the Appropriations Committee in the past, the Division's shrinking budget has jeopardized its capacity to support existing domestic violence dockets. Any consideration of expanding these dockets must come in the context of how much longer we can support what we already have in place.

With regard to section 14 of the bill, relating to the employment status of victims of domestic violence, the Division understands and supports the intent of the bill. However, we would ask the Committees to focus additional attention on the dynamics of how this system would work. Specifically, there are references to a "police or court record related to the family violence." Would such records be available to the victim or excluded from disclosure under the Freedom of Information Act? The Committees may wish to examine this language in greater detail and consider refinements.

In conclusion, the Division of Criminal Justice again extends its appreciation to the Speaker's Task Force for its work in this important area. The Division thanks the Judiciary and Human Services Committees for affording this opportunity to present our input on this matter. We would be happy to provide any additional information or to answer any questions the Committees might have.

Respectfully submitted,

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